

# Employer Tax Credit for Agriculture Worker Overtime Pay

## Tax Credit for Agricultural Worker Overtime Pay

The Oregon Legislature approved [House Bill \(HB\) 4002](#) in February 2022. The measure requires agricultural employers to pay certain workers for overtime hours worked and creates a refundable personal income or corporate tax credit for employers for a percentage of wages paid as overtime pay to agricultural workers for calendar years 2023 through 2028.

### Overview

Taxpayers who apply for the tax credit will be granted an automatic filing extension. The bill specifies the hour threshold at which overtime is paid for different years, industries, and number of employees.

Also, [Senate Bill \(SB\) 1524](#) (2022) added the provision that a three-year net operating loss carryback is allowed.

HB 4002 tasks the Oregon Department of Revenue (DOR) with creating the refundable tax credit program with associated application process, tax forms, and apportionment criteria if all applications exceed the \$55 million annual cap on the total credit approved by the Legislature.

Applications for the tax credit are due by January 31, 2024.

Written notice to all qualifying applicants will be provided no later than June 1, 2024. The notice will state the maximum amount of the credit the taxpayer is eligible to claim on their return.

For additional details see [the Tax Credit Overview \(PDF\)](#).

## Agriculture Employer Overtime Tax Credit

| Year | Tax credit as a percentage of overtime costs |                   |  |                       |                                    |
|------|--|-------------------|--|-----------------------|------------------------------------|
|      | Overtime threshold                           | More than 50 FTE* | 26 to 50 FTE* & dairies with more than 25 FTE* | Not more than 25 FTE* | Dairies with not more than 25 FTE* |
| 2023 | 55 hours                                     | 60%               | 75%  | 90%                   | 100%                               |
| 2024 | 55 hours                                     | 60%               | 60%  | 80%                   | 100%                               |
| 2025 | 48 hours                                     | 45%               | 60%  | 80%                   | 100%                               |
| 2026 | 48 hours                                     | 30%               | 50%  | 60%                   | 100%                               |
| 2027 | 40 hours                                     | 15%               | 50%  | 60%                   | 100%                               |
| 2028 | 40 hours                                     | 15%               | 50%  | 60%                   | 100%                               |

\*FTE is full-time equivalent

## Listening Sessions

The department hosted several listening sessions between July 11 and July 21 with representatives from different agricultural sectors and groups, including certified public accountants and payroll specialists. Representatives from the Bureau of Labor and Industries, Employment Department, Department of Agriculture and Business Oregon were also at each session.

The purpose of the sessions was for the department to better understand:

- The various wage remuneration methods used throughout the agricultural industry.
- How different agricultural industries expect to calculate overtime.
- Challenges to calculating overtime.

## Next Steps

This summer and fall, the department will work with panelists from listening sessions and a Rules Advisory Committee to develop:

1. An application for the tax credit;
2. A process and associated rules for apportioning the capped program credit, if it is exceeded; and
3. Communication materials for agricultural employers, and other partners, about how to apply for the credit by January 31, 2024.

## Contact

The department has an [Agriculture Overtime web page](#), which will be updated as the application process and tax credit program is developed.

For more information contact [Ag.Overtime@dor.oregon.gov](mailto:Ag.Overtime@dor.oregon.gov)